

ORIGINAL

1 K. Lynn Finateri Silbiger (SBN 196488)
2 HAWKINS, PARNELL & THACKSTON, LLP
3 444 South Flower Street – Suite 1100
4 Los Angeles, California 90071
5 Telephone: (213) 486-8000
6 Facsimile: (213) 486-8080
7 Email: lfinateri-silbiger@hplegal.com

8 Attorney for Defendant
9 TRAUNER, COHEN & THOMAS, LLP

FILED
2009 OCT -5 AM 11:42
CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY *[Signature]* DEPUTY

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MIDLAND CREDIT MANAGEMENT, INC., a
Kansas corporation; MIDLAND FUNDING, LLC,
a Delaware limited liability company; MRC
RECEIVABLES CORPORATION; a Delaware
corporation; and MIDLAND FUNDING NCC-2
CORPORATION, a Delaware corporation,

Plaintiffs,

v.

TRAUNER, COHEN & THOMAS, LLP, a Georgia
limited liability partnership, and Does 1 through 10,

Defendants.

CIVIL ACTION FILE NO. **09 CV 2187 H RBB**

PETITION FOR REMOVAL

Petitioner Trauner, Cohen & Thomas, LLP (hereinafter "TCT"; now known as Thomas & Cohen, LLP) hereby submits this Petition for removal of the action herein referred to from the Superior Court of San Diego County to the United States District Court for the Southern District of California, and respectfully shows to the Court the following:

1. The Petitioner herein, TCT, is a Defendant in a civil action brought in the Superior Court of San Diego County entitled Midland Credit Management, Inc. et al. v. Trauner, Cohen & Thomas, LLP, Case No. 37-2009-00097745-CU-PN-CTL. Attached hereto and made a part

1 hereof as **Exhibit A** is a true and correct copy of the following documents filed by the Plaintiffs
2 with the Clerk of the Superior Court of San Diego County, California:

3 (a) Complaint.

4 (b) Summons.

5 The attachment hereto, Exhibit A, constitutes all of the pleadings which have been filed in
6 the subject case in the said Superior Court of San Diego County, California.

7
8 2. The aforementioned action was commenced by the filing of the Complaint on
9 September 4, 2009. TCT was formally served in this matter on September 4, 2009.

10 3. This Petition is filed within thirty (30) days from the date of service of Defendant,
11 pursuant to 28 U.S.C. 1446 and FRCP 6(a).

12
13 4. This Court has jurisdiction over this action pursuant to § 1332 of Title 28 of the
14 United States Code because there is complete diversity of citizenship between the Plaintiffs and
15 Defendant and because the amount in controversy exceeds \$75,000.00 exclusive of interest and
16 costs.

17 5. Upon information and belief, Petitioner shows that the controversy between
18 Plaintiffs and Petitioner is a controversy between a citizen and resident of the State of Kansas
19 (Plaintiff Midland Credit Management, Inc.), a citizen and resident of the State of Delaware
20 (Plaintiffs Midland Funding, LLC, MRC Receivables Corporation, and Midland Funding NCC-2
21 Corporation), a citizen and resident of the State of Georgia (Petitioner/Defendant) and several
22 John Doe Defendants whose citizenship remains unknown.¹

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24
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26 ¹ California law has specifically stated that where the plaintiff creates uncertainty as to the
27 existence of federal diversity jurisdiction by "salting the complaint with phantom defendants",
28 that uncertainty should be resolved in the removing defendant's favor. Schmidt v. Capital Life Insurance Company, 626 F.Supp. 1315, 1318-1319 (N.D. Cal. 1986). Accordingly, the existence of John Doe Defendants in the instant action does not affect diversity jurisdiction under 28 U.S.C. § 1332.

1 6. Upon information and belief, Plaintiffs were at the time of the commencement of
2 this action and still are citizens and residents of the states of Kansas and Delaware and all have
3 their principal place of business in San Diego, California.

4
5 7. Petitioner was at the time of commencement of this action and still is a limited
6 liability partnership under the laws of the State of Georgia with its principal place of business in
7 Atlanta, Georgia and all of its partners domiciled in the State of Georgia.

8 8. The matter in controversy exceeds the value of \$75,000.00, exclusive of interest
9 and costs, in that Plaintiffs specifically plead for relief in the Complaint in the amount of at least
10 \$1.7 million. This is a civil action brought in the Superior Court of San Diego County,
11 California, of which the United States District Courts have original jurisdiction because of
12 diversity of citizenship and the amount in controversy pursuant to 28 U.S.C. § 1332.

13
14 9. Based on the complete diversity that exists between the parties and the amount in
15 controversy, the pending controversy is one which Petitioner is entitled to remove to this Court
16 pursuant to 28 U.S.C. § 1332.

17 10. Petitioner has duly filed a Notice of Removal To The United States District Court
18 with the Superior Court of San Diego County, California, a copy of which is attached hereto as
19 **Exhibit B.**

20
21 WHEREFORE, Petitioner prays that its Petition for Removal be filed and that said Action
22 be removed to and proceed in this Court and that no further proceeding be had in said case in the
23 Superior Court of San Diego, California.

24 DATED: October 2, 2009.

HAWKINS, PARNELL & THACKSTON, LLP


25 
26 By: K. Lynn Pinateri Silbiger (SBN 196488)
27 Attorney for Defendant
28 TRAUNER, COHEN & THOMAS, LLP

Exhibit "A"

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

TRAUNER, COHEN & THOMAS, LLP, a Georgia limited liability partnership, and Does 1 through 10

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

MIDLAND CREDIT MANAGEMENT, INC., a Kansas corporation;
(Additional Parties Attachment form is attached)

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form. If you want the court to hear your case, there may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory fee for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's fee must be paid before the court will dismiss the case. **(AVISO!) Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.**

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida el secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): **San Diego Central Courthouse**
220 West Broadway
San Diego, CA 92101

CASE NUMBER:
(Número del Caso): **37-2009-00097745-CU-PN-CTL**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Kirk A. Pasich, 2049 Century Park East, Suite 700, Los Angeles, CA 90067-3109 Tel.: (310) 772-8300

DATE: **SEP 04 2009**
(Fecha)

Clerk, by **[Signature]** Deputy
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons. (POS-010).)

<div style="border: 1px solid black; height: 100px; width: 100%;"></div>	NOTICE TO THE PERSON SERVED: You are served	
	1. <input checked="" type="checkbox"/> as an individual defendant.	
	2. <input type="checkbox"/> as the person sued under the fictitious name of (specify):	
	3. <input checked="" type="checkbox"/> on behalf of (specify): TRAUNER, COHEN & THOMAS, LLP, a Georgia limited liability partnership	
under:		<input type="checkbox"/> CCP 416.10 (corporation) <input type="checkbox"/> CCP 416.60 (minor) <input type="checkbox"/> CCP 416.20 (defunct corporation) <input type="checkbox"/> CCP 416.70 (conservatee) <input checked="" type="checkbox"/> CCP 416.40 (association or partnership) <input type="checkbox"/> CCP 416.90 (authorized person) <input type="checkbox"/> other (specify):
4. <input type="checkbox"/> by personal delivery on (date):		

SUM-200(A)

SHORT TITLE: Midland Credit Management, et al. v. Trauner, Cohen & Thomas	CASE NUMBER:
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INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

☒ Plaintiff
 ☐ Defendant
 ☐ Cross-Complainant
 ☐ Cross-Defendant

MIDLAND FUNDING, LLC, a Delaware limited liability company; MRC RECEIVABLES CORPORATION, a Delaware corporation; and MIDLAND FUNDING NCC-2 CORPORATION, a Delaware corporation.

Page ____ of ____
Page 1 of 1

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Kirk A. Pasich (SBN 94242); Steven P. Inman, II (SBN 227748) Dickstein Shapiro LLP 2049 Century Park East, Suite 700 Los Angeles, CA 90068 TELEPHONE NO.: (310) 772-8300 FAX NO.: (310) 772-8301 ATTORNEY FOR (Name): Plaintiffs Midland Credit Management, Inc., et. al		FOR COURT USE ONLY CM-010 37-2009-00097745-CU-PN-CTL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 220 West Broadway MAILING ADDRESS: Same CITY AND ZIP CODE: San Diego, CA 92101-3409 BRANCH NAME: Central		By Fax JUDGE CLERK
CASE NAME: Midland Credit Management, Inc., et. al. v. Trauner, Cohen & Thomas LLP		37-2009-00097745-CU-PN-CTL
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PIPD/W (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIPD/W (23) Non-PIP/W (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input checked="" type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIP/W tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Assail forfeiture (05) <input type="checkbox"/> Petition for arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive

4. Number of causes of action (specify): Nine

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: September 4, 2009
 Kirk A. Pasich
 (TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Form Adopted for Mandatory Use
 Judicial Council of California
 CM-010 (Rev. July 1, 2007)

CIVIL CASE COVER SHEET

Page 1 of 2
 Cal. Rules of Court, rules 2.30, 2.20, 3.400-3.418, 3.740
 Cal. Standards of Judicial Administration, r. 3.10
 www.courtinfo.ca.gov

American LegalNet, Inc.
 www.FortyTwo.com

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO	
STREET ADDRESS: 330 West Broadway	
MAILING ADDRESS: 330 West Broadway	
CITY AND ZIP CODE: San Diego, CA 92101	
BRANCH NAME: Central	
TELEPHONE NUMBER: (619) 450-7072	
PLAINTIFF(S) / PETITIONER(S): Midland Credit Management, Inc. et.al.	
DEFENDANT(S) / RESPONDENT(S): Trauner, Cohen & Thomas, LLP	
MIDLAND CREDIT MANAGEMENT, INC. VS. TRAUNER, COHEN & THOMAS, LLP	
NOTICE OF CASE ASSIGNMENT	CASE NUMBER: 37-2009-00097745-CU-PN-CTL

Judge: Timothy Taylor

Department: C-72

COMPLAINT/PETITION FILED: 09/04/2009

CASES ASSIGNED TO THE PROBATE DIVISION ARE NOT REQUIRED TO COMPLY WITH THE CIVIL REQUIREMENTS LISTED BELOW

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT).

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil consists of all cases except: Small claims appeals, petitions, and unlawful detainers.

COMPLAINTS: Complaints must be served on all named defendants, and a CERTIFICATE OF SERVICE (SDSC CIV-345) filed within 60 days of filing. This is a mandatory document and may not be substituted by the filing of any other document.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than a 15 day extension which must be in writing and filed with the Court.)

DEFAULT: If the defendant has not generally appeared and no extension has been granted, the plaintiff must request default within 45 days of the filing of the Certificate of Service.

THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO LITIGATION, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. MEDIATION SERVICES ARE AVAILABLE UNDER THE DISPUTE RESOLUTION PROGRAMS ACT AND OTHER PROVIDERS. SEE ADR INFORMATION PACKET AND STIPULATION.

YOU MAY ALSO BE ORDERED TO PARTICIPATE IN ARBITRATION PURSUANT TO CCP 1141.10 AT THE CASE MANAGEMENT CONFERENCE. THE FEE FOR THESE SERVICES WILL BE PAID BY THE COURT IF ALL PARTIES HAVE APPEARED IN THE CASE AND THE COURT ORDERS THE CASE TO ARBITRATION PURSUANT TO CCP 1141.10. THE CASE MANAGEMENT CONFERENCE WILL BE CANCELLED IF YOU FILE FORM SDSC CIV-359 PRIOR TO THAT HEARING

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

CASE NUMBER: 37-2009-00097745-CU-PN-CTL CASE TITLE: Midland Credit Management, Inc. vs. Trauner, Cohen & Thor

NOTICE TO LITIGANTS/ADR INFORMATION PACKAGE

You are required to serve a copy of this Notice to Litigants/ADR Information Package and a copy of the blank Stipulation to Alternative Dispute Resolution Process (received from the Civil Business Office at the time of filing) with a copy of the Summons and Complaint on all defendants in accordance with San Diego Superior Court Rule 2.1.5, Division II and CRC Rule 201.9.

ADR POLICY

It is the policy of the San Diego Superior Court to strongly support the use of Alternative Dispute Resolution ("ADR") in all general civil cases. The court has long recognized the value of early case management intervention and the use of alternative dispute resolution options for amenable and eligible cases. The use of ADR will be discussed at all Case Management Conferences. It is the court's expectation that litigants will utilize some form of ADR – i.e. the court's mediation or arbitration programs or other available private ADR options as a mechanism for case settlement before trial.

ADR OPTIONS

1) CIVIL MEDIATION PROGRAM: The San Diego Superior Court Civil Mediation Program is designed to assist parties with the early resolution of their dispute. All general civil independent calendar cases, including construction defect, complex and eminent domain cases are eligible to participate in the program. Limited civil collection cases are not eligible at this time. San Diego Superior Court Local Rule 2.31, Division II addresses this program specifically. Mediation is a non-binding process in which a trained mediator 1) facilitates communication between disputants, and 2) assists parties in reaching a mutually acceptable resolution of all or part of their dispute. In this process, the mediator carefully explores not only the relevant evidence and law, but also the parties' underlying interests, needs and priorities. The mediator is not the decision-maker and will not resolve the dispute – the parties do. Mediation is a flexible, informal and confidential process that is less stressful than a formalized trial. It can also save time and money, allow for greater client participation and allow for more flexibility in creating a resolution.

Assignment to Mediation, Cost and Timelines: Parties may stipulate to mediation at any time up to the CMC or may stipulate to mediation at the CMC. Mediator fees and expenses are split equally by the parties, unless otherwise agreed. Mediators on the court's approved panel have agreed to the court's payment schedule for county-referred mediation: \$150.00 per hour for each of the first two hours and their individual rate per hour thereafter. Parties may select any mediator, however, the court maintains a panel of court-approved mediators who have satisfied panel requirements and who must adhere to ethical standards. All court-approved mediator fees and other policies are listed in the Mediator Directory at each court location to assist parties with selection. **Discovery:** Parties do not need to conduct full discovery in the case before mediation is considered, utilized or referred. **Attendance at Mediation:** Trial counsel, parties and all persons with full authority to settle the case must personally attend the mediation, unless excused by the court for good cause.

2) JUDICIAL ARBITRATION: Judicial Arbitration is a binding or non-binding process where an arbitrator applies the law to the facts of the case and issues an award. The goal of judicial arbitration is to provide parties with an adjudication that is earlier, faster, less formal and less expensive than trial. The arbitrator's award may either become the judgment in the case if all parties accept or if no trial de novo is requested within the required time. Either party may reject the award and request a trial de novo before the assigned judge if the arbitration was non-binding. If a trial de novo is requested, the trial will usually be scheduled within a year of the filing date.

Assignment to Arbitration, Cost and Timelines: Parties may stipulate to binding or non-binding judicial arbitration or the judge may order the matter to arbitration at the case management conference, held approximately 150 days after filing, if a case is valued at under \$50,000 and is "at issue". The court maintains a panel of approved judicial arbitrators who have practiced law for a minimum of five years and who have a certain amount of trial and/or arbitration experience. In addition, if parties select an arbitrator from the court's panel, the court will pay the arbitrator's fees. Superior Court Local Rules Division II Chapter 3 and Code of Civil Procedure 1141 et seq. address this program specifically.

3) SETTLEMENT CONFERENCES: The goal of a settlement conference is to assist the parties in their efforts to negotiate a settlement of all or part of the dispute. Parties may, at any time, request a settlement conference before the judge assigned to their case; request another assigned judge or a pro tem to act as settlement officer; or may privately utilize the services of a retired judge. The court may also order a case to a mandatory settlement conference prior to trial before the court's assigned Settlement Conference judge.

4) OTHER VOLUNTARY ADR: Parties may voluntarily stipulate to private ADR options outside the court system including private binding arbitration, private early neutral evaluation or private judging at any time by completing the "Stipulation to Alternative Dispute Resolution Process" which is included in this ADR package. Parties may also utilize mediation services offered by programs that are partially funded by the county's Dispute Resolution Programs Act. These services are available at no cost or on a sliding scale based on need. For a list of approved DRPA providers, please contact the County's DRPA program office at (619) 238-2400.

ADDITIONAL ADR INFORMATION: For more information about the Civil Mediation Program, please contact the Civil Mediation Department at (619) 515-8908. For more information about the Judicial Arbitration Program, please contact the Arbitration Office at (619) 531-3818. For more information about Settlement Conferences, please contact the Independent Calendar department to which your case is assigned. Please note that staff can only discuss ADR options and cannot give legal advice.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO		FOR COURT USE ONLY
STREET ADDRESS: 330 West Broadway		
MAILING ADDRESS: 330 West Broadway		
CITY, STATE, & ZIP CODE: San Diego, CA 92101-3827		
BRANCH NAME: Central		
PLAINTIFF(S): Midland Credit Management, Inc. et al.		
DEFENDANT(S): Trauner, Cohen & Thomas, LLP		
SHORT TITLE: MIDLAND CREDIT MANAGEMENT, INC. VS. TRAUNER, COHEN & THOMAS, LLP		
STIPULATION TO ALTERNATIVE DISPUTE RESOLUTION PROCESS (CRC 3.221)		CASE NUMBER: 37-2009-00097745-CU-PN-CTL

Judge: Timothy Taylor

Department: C-72

The parties and their attorneys stipulate that the matter is at issue and the claims in this action shall be submitted to the following alternative dispute resolution process. Selection of any of these options will not delay any case management time-lines.

- | | |
|-----------------------------------------------------------------------------|-------------------------------------------------------------------------|
| <input type="checkbox"/> Court-Refered Mediation Program | <input type="checkbox"/> Court-Ordered Nonbinding Arbitration |
| <input type="checkbox"/> Private Neutral Evaluation | <input type="checkbox"/> Court-Ordered Binding Arbitration (Stipulated) |
| <input type="checkbox"/> Private Mini-Trial | <input type="checkbox"/> Private Reference to General Referee |
| <input type="checkbox"/> Private Summary Jury Trial | <input type="checkbox"/> Private Reference to Judge |
| <input type="checkbox"/> Private Settlement Conference with Private Neutral | <input type="checkbox"/> Private Binding Arbitration |
| <input type="checkbox"/> Other (specify): _____ | |

It is also stipulated that the following shall serve as arbitrator, mediator or other neutral: (Name) _____

Alternate: (mediation & arbitration only) _____

Date: _____

Date: _____

Name of Plaintiff

Name of Defendant

Signature

Signature

Name of Plaintiff's Attorney

Name of Defendant's Attorney

Signature

Signature

(Attach another sheet if additional names are necessary). It is the duty of the parties to notify the court of any settlement pursuant to California Rules of Court, 3.1385. Upon notification of the settlement the court will place this matter on a 45-day dismissal calendar.

No new parties may be added without leave of court and all un-served, non-appearing or actions by names parties are dismissed.

IT IS SO ORDERED.

Dated: 09/04/2009

JUDGE OF THE SUPERIOR COURT

SDSC CIV-359 (Rev 01-07)

STIPULATION TO USE OF ALTERNATIVE DISPUTE RESOLUTION

Page: 1

Kirk A. Pasich (CA SBN 94242)
 Steven P. Inman, II (CA SBN 227748)
 DICKSTEIN SHAPIRO LLP
 2049 Century Park East, Suite 700
 Los Angeles, CA 90067-3109
 Telephone: (310) 772-8300
 Facsimile: (310) 772-8301

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF SAN DIEGO

MIDLAND CREDIT MANAGEMENT, INC., a
 Kansas corporation; MIDLAND FUNDING, LLC, a
 Delaware limited liability company; MRC
 RECEIVABLES CORPORATION, a Delaware
 corporation; and MIDLAND FUNDING NCC-2
 CORPORATION, a Delaware corporation,

Plaintiffs,

v.

TRAUNER, COHEN & THOMAS, LLP, a Georgia
 limited liability partnership, and Does 1 through 10,

Defendants.

Case No. 37-2009-00097745-CU-PN-GTE

By Fax
 COMPLAINT FOR BREACH OF
 CONTRACT; NEGLIGENCE/LEGAL
 MALPRACTICE; BREACH OF
 FIDUCIARY DUTY; FRAUD; MONEY
 HAD AND RECEIVED; UNJUST
 ENRICHMENT; AND
 DECLARATORY RELIEF

DEMAND FOR JURY TRIAL

Plaintiffs Midland Credit Management, Inc. ("MCM"), Midland Funding, LLC, MRC
 Receivables Corporation, and Midland Funding NCC-2 Corporation (collectively the "MCM
 Account Owners") complain of defendants as follows:

NATURE OF THIS LAWSUIT

1. The MCM Account Owners bring this lawsuit to recover amounts paid to a law firm
 that wrongfully obtained reimbursement for fees and court costs that the firm never incurred for
 lawsuits that it had never filed. The MCM Account Owners also bring this lawsuit to seek damages
 in connection with lawsuits that the law firm failed to timely file that are now barred by the statute of

COMPLAINT

EX-11A-12746

1 limitations, or that now have a diminished value because the possibility of collection, or the amount
2 that can be collected, has diminished with the passage of time.

3 THE PARTIES

4 2. Plaintiff MCM is a Kansas corporation, with its principal place of business in San
5 Diego, California.

6 3. Plaintiff Midland Funding, LLC is a Delaware limited liability company, with its
7 principal place of business in San Diego, California. Midland Funding, LLC's sole member is
8 Midland Portfolio Services, Inc., a Delaware corporation, with its principal place of business in San
9 Diego, California.

10 4. Plaintiff MRC Receivables Corporation is a Delaware corporation, with its principal
11 place of business in San Diego, California.

12 5. Plaintiff Midland Funding NCC-2 Corporation is a Delaware corporation, with its
13 principal place of business in San Diego, California.

14 6. Trauner, Cohen & Thomas ("Trauner") is a Georgia limited liability partnership with
15 its principal place of business in Atlanta, Georgia. Plaintiffs are informed and believe, and based
16 thereon allege, that all of Trauner's partners are citizens of Georgia.

17 7. The MCM Account Owners are unaware of the true names and capacities, whether
18 individual, associate, partnership, corporate or otherwise, of the defendants fictitiously designated
19 herein as Does 1 through 10, and therefore sue those defendants by these fictitious names. MCM
20 Account Owners will seek leave of Court to amend this complaint when the true names and
21 capacities of these fictitiously designated defendants have been ascertained. The MCM Account
22 Owners are informed and believe, and on that basis allege, that Does 1 through 10, in some way
23 unknown to MCM Account Owners, are tortiously or otherwise legally responsible in some manner
24 for the occurrences alleged in this complaint and for plaintiffs' damages.

25 8. MCM and Trauner entered into a written contract that this Court is an appropriate
26 forum for resolution of any disputes between them. This written contract states in relevant part:
27 "The parties agree to the exclusive jurisdiction and venue of the applicable state and federal courts in
28 San Diego, California."

FACTS

9. MCM is a national debt collection company that, among other things, provides collection-related services to its affiliates. As part of its collection efforts on behalf of the MCM Account Owners, MCM contracts with attorneys who are experts in filing lawsuits to collect debts.

10. Trauner is a law firm that has represented the MCM Account Owners for several years. MCM has placed numerous accounts with Trauner for the purpose of collection (the "Accounts").

11. On September 1, 2004, Trauner, through its partner Russell S. Thomas, entered into a Collection Agreement with MCM (the "2004 Agreement"). Pursuant to the 2004 Agreement, MCM engaged Trauner to collect debts owed to MCM's clients. The following are the relevant provisions of the 2004 Agreement:

This Collection Agreement ("Agreement") is entered into as of Sept. 1, 2004 by and between Midland Credit Management, Inc. ("MCM"), with its principal place of business located at 5775 Roscoe Court, San Diego, California 92123, and Trauner, Cohen and Thomas, L.L.P. (the "Firm"), with its principal place of business located at 2880 Dresden Drive, Atlanta GA 30341.

Now, therefore, MCM and the firm, for the benefit of themselves, hereby agree as follows:

...

2.2.1 Manner of Collection. In accepting the placement of Accounts from MCM, the Firm agrees to abide by and conduct collection activities in a manner consistent with, the Procedures as revised from time to time, and all applicable local, state, and federal laws and regulations. . . .

...

2.4.2 Daily Reporting. The Firm will successfully upload, at least once a day on which the Firm is open for business, all information regarding any activity and/or transaction that occurs during that work day or the previous day on any Account received by the Firm from MCM, whether that Account is being handled by the Firm

1 or another law firm or attorney on the Firm's behalf, regardless of the jurisdiction.

2 The activities and/or transactions that are to be updated for each Account include, but
3 are not limited to communications or attempted communications between the Firm
4 and the Debtor and/or others, the date legal action is filed by the Firm and/or the
5 Debtor, the court in which any legal action is filed, case numbers, service dates,
6 judgment dates, post-judgment remedies and the date such items or activities are filed
7 and/or conducted, payment information and the application of payments received by
8 the Firm from or on behalf of the Debtor, and Court Costs. The Firm also agrees to
9 utilize MCM's Daily Invoicing Report, as part of its confirmation process relating to
10 the successful daily upload of activity and payments, to confirm that those amounts
11 the Firm believes were transmitted to MCM were received by MCM as part of each
12 daily upload. In the event the Firm believes there exists, or becomes aware of, one or
13 more discrepancies between what the Firm believes was transmitted to MCM and
14 what MCM received, the Firm is to contact MCM's Financial Process Analyst to
15 discuss and resolve the apparent discrepancy within 24-hours of discovery.

16 ...

17 3.1 Establishment of Segregated Account. The Firm will establish and maintain a
18 restricted account with a financial institution of the Firm's choosing, at the Firm's
19 sole expense, for the deposit of all Proceeds received by the Firm from or on behalf of
20 a Debtor. The Firm agrees to deposit all funds received into the segregated account
21 maintained pursuant to this paragraph within twenty-four (24) hours of receipt of
22 those funds by the Firm. In establishing and maintaining the segregated account, the
23 Firm will take any steps necessary to permit the withdrawal by MCM, via electronic
24 funds transfer, of proceeds due MCM from that segregated account on a weekly basis.
25 The Firm is responsible for correctly posting the Gross Proceeds to the respective
26 Accounts and will promptly make any necessary corrections upon notification by
27 MCM.

28 ...

1 3.3 Error Handling. On at least a daily basis, the Firm will confirm that all Net
2 Proceeds remitted to MCM the prior day have not been returned to the firm for
3 additional handling or correction of errors in the processing of those remittances. In
4 those cases in which a remittance has been returned to the Firm, the Firm will correct
5 the errors and remit the corrected amounts to MCM within 24-hours of the return to
6 the Firm of those Proceeds.

7 3.4.1 Standard Collection Commissions. With respect to those Accounts for which
8 the Firm receives payment from the Debtor, whether through voluntary or involuntary
9 processes, the Firm is entitled to a Commission for services performed on behalf of
10 MCM in the collection of Accounts, calculated as a percentage of the amounts
11 collected on each Account. Expenses such as postage, copying, and other expenses
12 may not be deducted from Gross Proceeds prior to calculating Net Proceeds to MCM,
13 and are the sole responsibility of the Firm unless otherwise agreed to as a
14 reimbursable expense in writing signed by the Director, Legal Outsourcing, or an
15 officer of MCM on behalf of MCM. The firm will first reimburse MCM for all Court
16 Costs prior to determining and deducting the Firm's Commission at the Account level
17 from the remittances to MCM at the Firm level. The Firm understands and agrees
18 that MCM may modify the Commission from time to time throughout the term of this
19 Agreement, and further agrees to be bound by the new Commission as modified. It is
20 understood and agreed that MCM will provide no less than thirty (30) days notice of
21 any changes to the Commission prior to the date the changes are to become effective.

22 3.4.2 Court Cost Handling. Court Costs will be advanced by the Firm. Prior to
23 incurring any court Costs, the Firm will evaluate each Account for which Court Costs
24 are to be incurred to ensure, to the extent practicable, that the Firm is not expending
25 Court Costs on an Account that is uncollectible. If the Firm fails to evaluate accounts
26 prior to filing suit and incurring Court Costs, and MCM terminates this Agreement
27 based upon a lack of Firm performance, the Firm is responsible for paying any
28 accumulated Court Cost deficit through continued collection activity on the Accounts

1 for which those Court Costs have been incurred. This situation constitutes a limited
 2 exception to the provisions set forth at Paragraphs 3.4.4 and 3.4.5 regarding the
 3 Firm's right to reimbursement of Court Costs upon termination of this Agreement.

4 ...

5 3.4.4 Recall or Return of Accounts. With respect to those Accounts returned to
 6 MCM for any reason, including but not limited to death of the Debtor, bankruptcy of
 7 the Debtor, or recall of the Account(s) by MCM, the Firm is not entitled to any
 8 Commission or charge of any kind. However, the Firm will be entitled to
 9 reimbursement of Court Costs incurred in pursuing the recalled Account(s) and the
 10 Commission for all Proceeds received by the Firm prior to receipt of notice of the
 11 Debtor's death, bankruptcy, or MCM's intent to recall the Account(s).

12 ...

13 4.1 Term. The term of this agreement is one (1) year, and will continue thereafter
 14 until terminated. This agreement may be terminated for any reason by either party
 15 upon one hundred eighty (180) days prior written notice to the other. ...

16 ...

17 6.2 Audit. The Firm agrees that MCM has the right, during normal business
 18 hours, with or without prior notice, to review, audit, and/or copy any and all
 19 documents maintained by the Firm with respect to the Account(s). The Firm agrees
 20 to cooperate with MCM in the conduct of an audit and to provide MCM with access
 21 to all Accounts, equipment, staff, or other resources without charge to MCM.

22 ...

23 6.7 Applicable Law. This Agreement is governed by, and is to be interpreted
 24 consistent with, the laws of the state of California, without regard to conflicts of law
 25 provisions.

26 12. On May 6, 2006, Trauner, through its partner Russell S. Thomas, entered into a
 27 Collection Agreement with MCM (the "2006 Agreement"). The 2006 Agreement superseded the
 28 2004 Agreement (the 2004 Agreement and the 2006 Agreement collectively are referred to as the

1 "Collection Agreements"). Midland Funding, LLC, MRC Receivables Corporation, and Midland
 2 Funding NCC-2 Corporation are expressly designated as third-party beneficiaries under the 2006
 3 Agreement. Pursuant to the 2006 Agreement, MCM, on behalf of the MCM Account Owners,
 4 engaged Trauner to collect debts owed to the MCM Account Owners. The following are the
 5 relevant provisions of the 2006 Agreement:

6 This Collection Agreement (together with its exhibits and other documents expressly
 7 incorporated herein by reference, collectively, this "Agreement") is entered into this 6
 8 day of May, 2006 (the "Effective Date"), by and between Midland Credit
 9 Management, Inc. ("MCM"), with its principal place of business located at 8875 Aero
 10 Drive, Suite 200, San Diego, California 92123, and Trauner, Cohen & Thomas (the
 11 "Firm"), with its principal place of business located at 2880 Dresden Dr., Atlanta, GA
 12 30341.

13 ...
 14 Whereas, the Firm acknowledges and agrees that the MCM Owners shall be third
 15 party beneficiaries to this Agreement.

16 Now, therefore, in consideration of the premises, mutual covenants and promises
 17 contained herein, and other good and valuable consideration, the receipt and
 18 sufficiency of which are hereby acknowledged, the parties, intending to be legally
 19 bound, hereby agree for themselves and the benefit of the MCM Owners, as follows:

20 ...
 21 2.2.1 Manner of Collection. In accepting the placement of Accounts from MCM,
 22 the Firm shall abide by, and conduct all of its activities in a manner consistent with
 23 the then current Procedures and all applicable local, state, and federal laws, rules and
 24 regulations including, without limitation: (i) complying with the Fair Debt Collection
 25 Practices Act, as amended, The Right to Financial Privacy Act of 1978, as amended,
 26 the Fair Credit Reporting Act, as amended, Gramm-Leach-Bliley Act, as amended,
 27 the rules adopted under each such statute and any and all applicable state and local
 28 laws and rules regarding Firm's and MCM's debt collection activities, including, but

1 not limited to late fees and interest, and (ii) avoiding threatening or implying that the
 2 Firm will take action that it does not intend to take or cannot take. . . . It is the Firm's
 3 sole responsibility and obligation to ensure that any suit filed in connection with an
 4 Account is brought in the name of the real party in interest (i.e., either in the name of
 5 the respective MCM Owner, or MCM only in the event a lawsuit is permitted to be
 6 brought in the name of a collection agency).

7 . . .

8 2.4.1 Insurance Coverage. Throughout the term of this Agreement and for a
 9 minimum period of two years thereafter, the Firm shall maintain Malpractice/Errors
 10 & Omissions insurance in an amount not less than \$1,000,000 per occurrence and
 11 \$1,000,000 in aggregate annually, which insurance shall name MCM and the MCM
 12 Owners as loss payees. The firm will place the insurance policies listed above with
 13 insurance companies who are licensed to do business in the Firm's states of operation
 14 and whose financial condition, policy forms, and deductibles are acceptable to MCM.
 15 All policies will contain the following provision: "This policy will not be modified
 16 by any endorsement which restricts or reduces the required coverage." The firm will
 17 immediately inform MCM in the event such insurance is cancelled, whether
 18 voluntarily or involuntarily, and a similar policy does not become effective on or
 19 before the date of cancellation. Upon the request of MCM, the firm shall provide
 20 MCM with certificates of insurance evidencing proof of coverage in conformity with
 21 this Section.

22 2.4.2 Daily Reporting. The Firm will successfully upload, at least once each
 23 business day, all information regarding any activity and/or transaction that occurs
 24 during that workday or the previous day on any and all Accounts, whether the
 25 Account is being handled by the Firm, a Third Party, or another law firm or attorney
 26 on the firm's behalf regardless of the jurisdiction. The activities and/or transactions
 27 that are to be updated for each Account include, but are not limited to,
 28 communications or attempted communications to or from the Debtor and/or others on

1 behalf of the Debtor or in connection with the Account, the date any legal action is
 2 filed by or against the Debtor or in connection with an Account, the court in which
 3 any legal action is filed, case numbers, judgment dates, post-judgment remedies
 4 attempted and the date such items or activities are filed and/or conducted, payment
 5 information and the application of payments made by or on behalf of the Debtor,
 6 Court Costs, designation of the appropriate and current YGC Status Codes provided
 7 to Firm by MCM, a listing of and the corresponding Closing Codes for any Accounts
 8 closed or recalled hereunder, and any other information reasonable requested by
 9 MCM. The Firm also agrees to utilize MCM's Financial Reports, as part of its
 10 confirmation process relating to the successful daily unload of activity and payments,
 11 to confirm that those amounts the Firm believes were transmitted to MCM were
 12 received by MCM as part of each daily upload. In the event the Firm believes there
 13 exists, or becomes aware of, any discrepancies in postings or remittances and any
 14 other matters arising out of or relating to this Agreement, the Firm shall immediately
 15 contact MCM to discuss and resolve all actual or apparent discrepancies within 24-
 16 hours of discovery.

17 ...

18 2.4.5 Record Keeping. The Firm agrees to maintain true, complete and accurate
 19 records, instruments, agreements, correspondence and other documentation,
 20 irrespective of the medium held, received or generated for a period of seven (7) years
 21 on all matters and activities: (i) related to or arising in connection with each Account;
 22 and (ii) arising out of or relating to this Agreement.

23 ...

24 3.1 Establishment of Segregated Account. The Firm will establish and maintain
 25 in the name of MCM a restricted and segregated account with a federally insured
 26 financial institution of the Firm's choosing (the "Segregated Account"), at the Firm's
 27 sole expense, for the deposit of all Proceeds received by the Firm on all Accounts.

28 3.2 Posting and Accounting of Proceeds. The Firm agrees to deposit all Proceeds

into the Segregated Account within twenty-four (24) hours of the receipt thereof by the Firm. In establishing and maintaining the Segregated Account, the Firm will take all steps necessary to ensure the withdrawal, from time to time at MCM's sole control and discretion, by MCM, of all Proceeds in the Segregated Account. The Firm hereby expressly authorizes MCM to initiate electronic credit and debit entries for all monies contained in the Segregated Account from time to time. No Commissions, Court Costs or other amounts due to the Firm may at anytime or under any circumstance be withdrawn from the Segregated Account, and without limiting the generality of the foregoing, the Firm acknowledges that it shall not be entitled to take any set-off against any Proceeds received by the Firm are to be applied against the amounts due to the Firm first against Court Costs, then against interest, followed by principal and finally Attorney's Fees.

3.3 Reporting and Handling. The firm is responsible for: (i) correctly posting all Proceeds to the Segregated Account; (ii) calculating and reporting to MCM on a daily basis a breakdown on an Account by Account basis of (a) Proceeds received and Court Costs paid, and (b) Commissions due in connection therewith; (iii) assigning the proper coding in connection with each posting; and (iv) making any necessary correction within twenty-four (24) hours of its own discovery thereof or notification by MCM. From time to time, MCM will prepare and deliver to Firm an exception report identifying any open or outstanding issues or discrepancies arising out of any Account and report relating thereto.

3.4.1 Standard Commission Commissions. With respect to those Accounts for which the Firm receives Commissionable Collections, whether through voluntary or involuntary payments, the Firm is entitled to a Commission (less any taxes, if any, due and payable by MCM on such Commission) for services performed based on the Commissionable Collections while such Accounts are placed with the Firm. The

1 payment of Commission in accordance with the percentages and categories set forth
 2 in Exhibit "C" (this reference made a part hereof) will be the only form
 3 compensation of any kind whatsoever owed or payable to the firm
 4 under this Agreement, and all expenses such as postage, copying, and any
 5 other costs (except to the limited extent provided for herein), taxes
 6 (including, without limitation, any income, sales, service or use taxes) and other
 7 expenses incurred or suffered in connection with the Agreement or any
 8 Third Party shall be borne solely by the Firm and may not be deducted or set-off, for
 9 any reason, from any Commission or any other amounts otherwise recovered in
 10 connection with or this Agreement. Commissions earned will be paid
 11 by MCM, by electronic funds transfer or check, no more than two (2) weeks after the
 12 applicable transaction is uploaded by the Firm to MCM and successfully processed by
 13 MCM. The Firm hereby acknowledges and agrees that MCM may, in its sole discretion,
 14 modify the Commission terms and amounts from time to time throughout the Term of
 15 this Agreement, and the Firm agrees to either be bound by such new Commission terms
 16 and amounts as may be determined by MCM or to terminate this Agreement in accordance with provisions
 17 set forth below. It is understood and agreed that MCM will provide no less than
 18 thirty (30) days notice of any modifications to the Commission terms or rates prior to
 19 the date the modifications are to become effective, upon receipt of which the Firm
 20 shall have ten (10) days to notify MCM in writing of its rejection thereof, and its
 21 intent to terminate the Agreement. The effective date of such termination shall be
 22 determined by MCM in its sole discretion, albeit under the existing Commission
 23 terms and amounts.
 24 **3.4.2 Court Costs and Reimbursement.** Court Costs will be advanced by the Firm and
 25 reimbursed to MCM by electronic funds transfer or check, no more than two (2)
 26 weeks after the applicable transaction is uploaded by the Firm to MCM and
 27 successfully processed by MCM. Prior to incurring any Court Costs, the Firm will
 28 evaluate each Account for which Court Costs are to be incurred to ensure that the

1 Firm shall not be entitled to recover any non-reimbursable Court Costs on an Account that is uncollectible.
 2 If the Firm is unable to collect an Account, the Firm shall not be entitled to recover any Court Costs or MCM
 3 detentions on such Accounts, including unreimbursable Court Costs, and MCM terminates
 4 this Agreement upon the Firm's termination of its obligation, the Firm shall not be entitled to
 5 reimbursement of Court Costs in connection with such Accounts, shall remit to
 6 MCM any Court Costs in connection with such Account.
 7 already incurred by the Firm in connection with such Accounts, and shall be responsible for ongoing Court Costs in connection with
 8 continued detentions on such Accounts. This situation constitutes a limited
 9 exception to the provisions set forth in Sections 3.4.3 and 4.2 regarding the Firm's
 10 right to recover Court Costs upon termination of this Agreement.
 11 3.4.4. In the event of the death of the Debtor, or the bankruptcy of the Debtor, or the
 12 MCM's recall of the Account(s), or the death of the Debtor, or the bankruptcy of
 13 the Debtor, or the recall of the Account(s) by MCM, the Firm shall not be entitled to
 14 payment of any Court Costs, or any other amount whatsoever, other than: (i) reimbursement of Court
 15 Costs incurred by the Firm in connection with such Account, as set forth in Section 3.4.2, properly incurred on such
 16 Account prior to the Firm's receipt of notice of the Debtor's death, the Debtor's bankruptcy,
 17 or MCM's recall of the Account(s), and (ii) payment of earned Commissions
 18 on Commission(s) received by the Firm prior to its receipt of notice of
 19 the Debtor's death, the Debtor's bankruptcy, or MCM's intent to recall the
 20 Account(s).
 21
 22 4.1. This Agreement shall be for an initial one (1) year period
 23 starting on the date of execution of this Agreement, and shall thereafter automatically renew for
 24 consecutive one (1) year periods (collectively the "Term"), unless earlier terminated
 25 pursuant to the provisions of Section 4.2. This Agreement may be terminated for any or no reason
 26 by either party upon the provision of written notice given thirty (30)
 27 days prior to the expiration of the initial or any renewal term; (ii) the mutual consent of
 28 the parties; or (iii) the provision of one

1 hund for writing fee to the other party. . . .

2 . . .

3 6.2 MCM shall have the right from time to time,
4 during the term of this Agreement, without prior notice, to review, inspect, audit,
5 and/or otherwise examine the books, records and information maintained by the Firm with respect to the
6 Accounts receivable of MCM in the conduct of its audit and
7 to all documents (and records and information) relating
8 to other receivables without charge to MCM. In any audit
9 conducted in compliance with the terms and conditions of this
10 Agreement, the Firm shall be responsible for any and all expenses and fees
11 incurred in connection with the discovery of any noncompliance.
12 Notwithstanding to the contrary, MCM shall
13 retain the right to recover in equity or under this Agreement.

14 . . .
15 6.7 This Agreement shall be governed by the laws of the state of California, without regard to
16 conflict of laws principles arising out of or relating to this
17 Agreement. The parties agree to the exclusive jurisdiction and
18 venue of the state and federal courts in San Diego, California.

19 6.8 Declaration. This Agreement shall not confer any rights or
20 remedies, except to the MCM Owners and their respective
21 beneficiaries; . . .

22 . . .
23 6.1. Unless stated to in writing by MCM, the Firm
24 shall not create, grant, or suffer to exist in favor of itself or any Third Party,
25 any interest, assignment, transfer or other encumbrances upon
26 any, but not limited to, the records and Proceeds relating to
27 or with; and (ii) accept or receive or agree to accept or

1 received any commission, compensation, kickback
2 or any other benefit arising out of, the agreement.
3 13. Trauner agreed to pay MCM all costs resulting from
4 She agreed to pay MCM all costs resulting from any proceedings in bankruptcy court)
5 between MCM and Trauner concerning any proceedings of this
6 Agreement. No person or entity hereunder, including
7 parties, shall be liable in addition to such other remedies may be
8 granted by the court costs resulting from proceedings to such
9 litigation.
10 14. Trauner agreed to comply with the collection
11 activities "including all procedures] as revised from time to time, and all
12 applicable laws and regulations."
13 15. Trauner often filed lawsuits against debtors on behalf
14 of the MCM. Trauner's Collection Agreements, court orders for such filings
15 were to be paid to MCM for reimbursement.
16 16. Trauner established a segregated account (the
17 "Segregated Account") for proceeds collected by Trauner on the Accounts
18 ("Proceeds") and deposited into the Segregated Account within 24 hours of
19 receipt of the proceeds.
20 17. MCM noted that Trauner's overall performance. In particular,
21 MCM noted that certain lawsuits had been filed, those lawsuits
22 were not prosecuted at the same rate that Trauner previously had achieved.
23 As a result of MCM's concerns, MCM terminated its relationship with Trauner in October 2008.
24 18. MCM conducted an audit of Trauner's records related to
25 Trauner's handling of the Accounts. The audit continued through early July 2009, when Trauner
26 withheld key documents. As part of the audit, MCM obtained 30 boxes of files for which
27 Trauner had not paid court costs for lawsuits that had never been
28 filed. From the audit, MCM determined that Trauner received funds to which it was not entitled to

DOCSLA-43746

1 funds collected from transactions in the Segregated Account.

2 31. The result of Trauner's breaches of the Collection

3 Agreement.

4 **CAUSE OF ACTION**

5 (Cause of Action) (Agreement) against Trauner and

6 (Account Owners)

7 26. To incorporate the allegations set forth in

8 paragraph

9 27. The enforceable contract between MCM and

10 Trauner.

11 28. The terms of the 2006 Agreement and the manner

12 specified

13 29. The party beneficiaries of the Agreement.

14 30. Trauner, by, among other things, bringing lawsuits as

15 filed that requiring payment for costs actually incurred by

16 Trauner, failing to timely remit separately

17 funds collected from conducting improper transactions in the

18 Segregated

19 31. The damages as a result of Trauner's breaches

20 of the Collection

21 **CAUSE OF ACTION**

22 (Cause of Action) (Trauner by the MCM Account Owners)

23 32. To incorporate the allegations set forth in

24 paragraph 30. The complaint as if fully set forth in

25 33. The Account Owners to exercise reasonable care and

26 skill and care in the management of the Accounts.

27 34. Trauner, by, among other things, failing to file cases that may now

28 be barred by the statute of limitations, thereby increasing the possibility of

Function	Estimated Value	Name	Type	SN/Tag	Location	Notes	JPC Notes
Desktop Switch	\$100 - \$100	3COM Superstack 3	Switch	7L37601	1B		
Desktop Switch	\$50 - \$100	3COM Superstack 3	Switch	0300/7MFF019519	1B		
Desktop Switch	\$50 - \$100	3COM Superstack 3	Switch	0300/7MFF020661	1B		
Desktop Switch	\$15 - \$30	Dell PC 2024	Switch	30J9331	1C		
Desktop Switch	\$15 - \$30	Dell PC 2224	Switch	4GKVV91	1C		
Collect America Network	Unknown	SG8100 - CA	Firewall	ATT2548615	1C		
Switch	\$10	DMZ Switch	Switch	SWAC2 16 port	1A		
Backbone Switch	\$100 - \$250	Core Switch Dell PC 5224	Switch	6nDKL21	1A		
Collect America Network	\$10	D-Link DES-1009G	Switch	Alt Internet	1A		
KVM	\$50 - \$100	Prima-16 16 Port KVM	KVM		1A		
Hubbard Backup	\$50 - \$150	Sony AIT SDX-D700CTCT	Backup	UHOST1	1A		
Desktops Switch	\$50 - \$100	Dell PC 3340	Switch	7L37601	1B		
Desktops Switch	\$50 - \$100	3COM Superstack 3	Switch	0300/7MFF019519	1B		
Desktops Switch	\$50 - \$100	3COM Superstack 3	Switch	0300/7MFF020661	1B		
Desktops Switch	\$15 - \$30	Dell PC 2024	Switch	30J9331	1C		
Desktops Switch	\$15 - \$30	Dell PC 2224	Switch	4GKVV91	1C		
Collect America Network	Unknown	SG8100 - CA	Firewall	ATT2548615	1C		
Firewall	\$250 - \$500	Fortigate 100A	Firewall	FG100A3908503049	1E		
Firewall Gateway	\$250						

Email, Ym...

Will Put
+1 - Price on
Hand

Fax 678-808-3323

THE COURT OF APPEALS

Decatur, Georgia 30030

Gordon C. Tomlin
 The Tomlinson Law Office
 6050 Peachtree
 Suite 240-111
 Norcross, Ga 30071

per

Greetings:

You are hereby notified to set all other
 to appear at the trial of Judge E. A. Tamm
 located in court room 10, 1st Floor floor, at
 Courthouse, 550 Peachtree Street, NE
 for the following date: 10/13/09

Case Style: 09-54 - Arrow Financial Services, Inc. vs. J. L. Can
 Event Type: Family Calendar
 Event Date: 10/13/2009
 Event Time: 10:00 AM

Sincerely,

Betty Sanders
 State Court of Cobb County

COURT C
Decatur, Georgia

A
JN

Gordon C. Tomlinson
The Tomlinson
6050 Peachtree
Suite 240-111
Norcross, Georgia

llc

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Greetings:

You are hereby
to appear at
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Sincerely,

Betty Sanderson
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Gordon C. To
 The Tomlinson
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 Suite 240-1
 Norcross, G

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 Event Date
 Event Time

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Sulver

Sincerely,

Betty Francis
 State Cour

ounty

Exhibit "B"

1 K. Lynn Finateri Silbiger (SBN 196488)
2 HAWKINS, PARNELL & THACKSTON, LLP
3 444 South Flower Street – Suite 1100
4 Los Angeles, California 90071
5 Telephone: (213) 486-8000
6 Facsimile: (213) 486-8080
7 Email: *lfinateri-silbiger@hplegal.com*

8 Attorney for Defendant
9 TRAUNER, COHEN & THOMAS, LLP

10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SAN DIEGO**
13

14 MIDLAND CREDIT MANAGEMENT, INC., a
15 Kansas corporation; MIDLAND FUNDING, LLC, a
16 Delaware limited liability company; MRC
17 RECEIVABLES CORPORATION; a Delaware
18 corporation; and MIDLAND FUNDING NCC-2
19 CORPORATION, a Delaware corporation,

20 Plaintiffs,

21 v.

22 TRAUNER, COHEN & THOMAS, LLP, a Georgia
23 limited liability partnership, and Does 1 through 10,

24 Defendants.

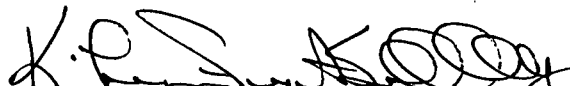
Case No. 37-2009-00097745-CU-PN-CTL

**NOTICE OF REMOVAL TO THE
UNITED STATES DISTRICT COURT**

25 NOTICE IS HEREBY GIVEN that Trauner, Cohen & Thomas, LLP, Defendant in the
26 above-styled action, has filed in the United States District Court for the Southern District of
27 California, a Petition for Removal of said action to the United States District Court in accordance
28 with the provisions of 28 U.S.C. §§ 1441, 1446 attached hereto and made part hereof is a true
copy of said petition for removal [without exhibits] as **Exhibit A**.

DATED: October 2, 2009.

HAWKINS, PARNELL & THACKSTON, LLP

26 
27 By: K. Lynn Finateri Silbiger (SBN 196488)
28 Attorney for Defendant
TRAUNER, COHEN & THOMAS, LLP

VERIFICATION

1 K. Lynn Finateri Silbiger (SBN 196488)
2 HAWKINS, PARNELL & THACKSTON, LLP
3 444 South Flower Street – Suite 1100
4 Los Angeles, California 90071
5 Telephone: (213) 486-8000
6 Facsimile: (213) 486-8080
7 Email: *lfinateri-silbiger@hplegal.com*

8 Attorney for Defendant
9 TRAUNER, COHEN & THOMAS, LLP

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

11 MIDLAND CREDIT MANAGEMENT, INC., a
12 Kansas corporation; MIDLAND FUNDING, LLC,
13 a Delaware limited liability company; MRC
14 RECEIVABLES CORPORATION; a Delaware
15 corporation; and MIDLAND FUNDING NCC-2
16 CORPORATION, a Delaware corporation,

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Plaintiffs,

v.

16 TRAUNER, COHEN & THOMAS, LLP, a Georgia
17 limited liability partnership, and Does 1 through 10,

Defendants.

CIVIL ACTION FILE
NO. _____

VERIFICATION

19 STATE OF CALIFORNIA)
20)
21 COUNTY OF LOS ANGELES)
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28)

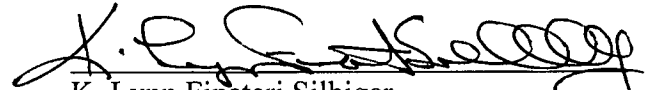
SS:

22 Personally appeared before me, the undersigned officer of said state and county, duly
23 authorized by law to administer oaths, K. Lynn Finateri Silbiger who, being first duly sworn,
24 deposes and says under oath that she is an attorney for Trauner, Cohen & Thomas, LLP, and that
25 the contents and the statements and allegations contained in the within and foregoing Notice of
26 Removal are true to the best of her knowledge and belief.

VERIFICATION


1 FURTHER AFFIANT SAYETH NOT.

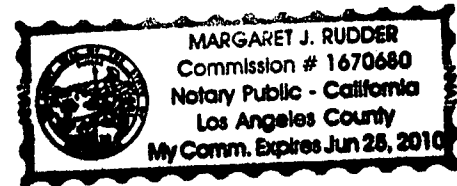
2 DATED this 2nd day of October, 2009.

3 
4 K. Lynn Finateri Silbiger

5 State of California
6 County of Los Angeles

7 Subscribed and sworn to before me on
8 this 2nd day of October, 2009, by
9 K. Lynn Finateri Silbiger, proved to me on the
10 basis of satisfactory evidence to be the person
11 who appeared before me.

12 
13 Notary Public - Margaret J. Rudder



14 My Commission Expires: June 25, 2010

1 K. Lynn Finateri Silbiger (SBN 196488)
2 HAWKINS, PARNELL & THACKSTON, LLP
3 444 South Flower Street – Suite 1100
4 Los Angeles, California 90071
5 Telephone: (213) 486-8000
6 Facsimile: (213) 486-8080
7 Email: lfinateri-silbiger@hplegal.com

8 Attorney for Defendant
9 TRAUNER, COHEN & THOMAS, LLP

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

11 MIDLAND CREDIT MANAGEMENT, INC., a
12 Kansas corporation; MIDLAND FUNDING, LLC,
13 a Delaware limited liability company; MRC
14 RECEIVABLES CORPORATION; a Delaware
15 corporation; and MIDLAND FUNDING NCC-2
16 CORPORATION, a Delaware corporation,

17 Plaintiffs,

18 v.

19 TRAUNER, COHEN & THOMAS, LLP, a Georgia
20 limited liability partnership, and Does 1 through 10,

21 Defendants.

CIVIL ACTION FILE
NO. _____

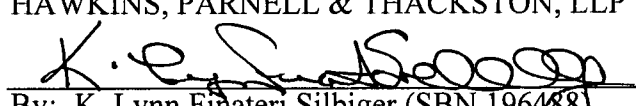
CERTIFICATE OF SERVICE

22 This is to certify that I have this date served a copy of the foregoing **PETITION FOR**
23 **REMOVAL** by depositing a true and correct copy of it in the United States mail with adequate
24 postage affixed thereon, addressed as follows:

25 Kirk A. Pasich
26 Steven P. Inman, II
27 DICKSTEIN SHAPIRO LLP
28 2049 Century Park East – Suite 700
Los Angeles, California 90067-3109

DATED: October 2, 2009.

HAWKINS, PARNELL & THACKSTON, LLP

By: 
K. Lynn Finateri Silbiger (SBN 196488)
Attorney for Defendant
TRAUNER, COHEN & THOMAS, LLP

1 Midland Credit Management, Inc, et al. v. Trauner, Cohen & Thomas et al.

2 **PROOF OF SERVICE**

3 **STATE OF CALIFORNIA, COUNTY OF SAN DIEGO**

4 I declare that I am employed by Hawkins, Parnell & Thackston, LLP. I am over the age of
5 eighteen years and not a party to the within cause; my business address is 444 South Flower
6 Street, Suite 1100, Los Angeles, California 90071-2901.

7 On the date set forth below, I served the foregoing document(s) described as:

8 **PETITION FOR REMOVAL**

9 On the parties in said cause.

10 Kirk A. Pasich
11 Steven P. Inman, II
12 DICKSTEIN SHAPIRO, LLP
2049 Century Park East, Suite 700
Los Angeles, CA 90067

13 ☒ **BY MAIL:** by enclosing a true copy thereof in a sealed envelope and, following ordinary
14 business practices, said envelope, with postage pre-paid, was placed for mailing and
15 collection (in the offices of Hawkins, Parnell & Thackston, LLP) in the appropriate place
16 for mail collected for deposit with the United States Postal Service. I am readily familiar
with the Firm's practice for collection and processing of correspondence/documents for
mailing with the United States Postal Service and that said correspondence/documents are
deposited with the United States Postal Service in the ordinary course of business on the
same day.

17 ☐ **BY FACSIMILE:** by facsimile to the facsimile number(s) of the offices of the
18 addressee(s) as indicated above. Fax service is equivalent to personal service pursuant to
Trial Setting Order.

19 ☐ **BY PERSONAL SERVICE:** by enclosing a true and correct copy thereof in a sealed
20 envelope(s), addressed as above, and causing each envelope(s) to be hand-served on this
day by courier service following ordinary business practices.

21 I declare under penalty of perjury that the foregoing is true and correct, and that this
22 declaration was executed on October 2, 2009, at Los Angeles, CA.

23 

24 Signature

25 **Charman Bee**

26 Print Name

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

MIDLAND CREDIT MANAGEMENT, INC., ET AL.

(b) County of Residence of First Listed Plaintiff San Diego County
(EXCEPT IN U.S. PLAINTIFF CASES)09 CV 2187 H RBB

(c) Attorney's (Firm Name, Address, and Telephone Number)

Kirk A. Pasich and Steven P. Inman, II

Dickstein Shapiro LLP

2049 Century Park East - Suite 700, Los Angeles, CA 90067-3109

DEFENDANTS

TRAUNER, COHEN & THOMAS, LLP

County of Residence of First Listed Defendant San Diego County

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

K. Lynn Finateri Silbiger

Hawkins, Parnell & Thackston, LLP

444 South Flower Street - Suite 1100, Los Angeles, CA 90071

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|---------------------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input checked="" type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC § 1332

Brief description of cause:

Plaintiffs are suing Defendants for breach of contract and legal malpractice

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

1,700,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

10-2-09

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

5899

AMOUNT

\$350.00

APPLYING IFP

JUDGE

MAG. JUDGE

MS10/05/09

Court Name: USDC California Southern
Division: 3
Receipt Number: CAS005899
Cashier ID: msweeney
Transaction Date: 10/05/2009
Payer Name: HAWKINGS AND PARNELL LLP

CIVIL FILING FEE
For: MIDLAND MGMT V TRAUNER
Case/Party: D-CAS-3-09-CV-002187-001
Amount: \$350.00

CHECK
Check/Money Order Num: 190112
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

There will be a fee of \$45.00
charged for any returned check.